

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD, CHICAGO, ILLINOIS 60604**

DATE: March 21, 2013

SUBJECT: 2006 Wheeling Pittsburgh Steel inspection report

TO: File

FROM: Robert Dean Smith, LPG *RDS*
Environmental Scientist
CS-1, Land and Chemicals Division

On April 17 through 21, 2006, I inspected four Wheeling Pittsburgh Steel (WPS) facilities in Ohio: Steubenville North (OHD000810382), Steubenville South (aka Mingo Junction (OHD980618177), Yorkville (OHD082964313), and Martins Ferry (OHD010448231). Ohio Environmental Protection Agency inspectors Richard Stewart and John Rochotte accompanied me on the inspection. Patrick Smith and "Bud" Smith represented WPS. The purpose of the inspection was to support EPA's then on-going enforcement case in conjunction with the U.S. Department of Justice. The WPS facilities are now RG Steel.

I authored a report, complete with photographs, of the inspections. All four facilities were covered in one report. The report was submitted to my supervisor for review and was approved. The report was in my personal file at my desk until sometime in 2010 when I decided to move important documents to our file room on the 7th floor of the Metcalf Federal Building, the building where EPA's Chicago office is located. I took the WPS inspection report as well as other documents to the file room and placed them into the "to file" area and left the files there.

I attempted to retrieve the WPS April 2006 inspection report and it was not found in any WPS file. I have no explanation of why the report is missing. I have looked elsewhere, such as my assigned work station and have not found the report.

I have been able to locate an electronic draft of this inspection report which has not been signed by my supervisor. I only have the photographs in a draft power point presentation that was not given

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	)	Chapter 11
)	
WP STEEL VENTURE LLC, et al.,	)	Case No. 12-11661 (KJC)
)	
Debtors. ¹	)	(Jointly Administered)
)	

**STIPULATION BETWEEN DEBTORS AND
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

The above-captioned debtors and debtors-in-possession (collectively, the “Debtors”) and the United States Environmental Protection Agency (“EPA”) hereby stipulate and agree as follows, subject to a request by the United States for approval under environmental law after any public comment:

I. BACKGROUND

Procedural Background

1. On May 31, 2012, (the “Petition Date”) each of the Debtors filed a voluntary petition in the United States Bankruptcy Court for the District of Delaware (the “Court”) for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101- 1330, as amended (the “Bankruptcy Code”).

2. The Debtors have sold their facilities and substantially all of their other assets and are continuing to liquidate their remaining assets:

The Claims Relating to Debtor RG Steel Wheeling, LLC (Case No. 12-11664)

3. The United States (as defined below) has asserted a claim for civil penalties against RG Steel Wheeling, LLC, one of the Debtors, for asserted violations of the Resource Conservation and Recovery Act (“RCRA”), 15 U.S.C. § 6901 et seq., at facilities in Steubenville and Mingo Junction, Ohio and Follansbee, West Virginia; the Clean Air Act (“CAA”), 42 U.S.C. §§ 7401-7671q, at facilities in

¹ If applicable, the last four digits of the taxpayer identification numbers of the Debtors follow in parentheses: (i) WP Steel Venture LLC (7095); (ii) Metal Centers LLC; (iii) RG Steel, LLC (1806); (iv) RG Steel Railroad Holding, LLC (4154); (v) RG Steel Sparrows Point, LLC (3633); (vi) RG Steel Warren, LLC (0253); (vii) RG Steel Wheeling, LLC (3273); and (viii) RG Steel Wheeling Steel Group, LLC (9927). The Debtors’ mailing address is P.O. Box 1847, Bel Air, Maryland 21014.

Mingo Junction, Ohio and Follansbee, West Virginia; and the Clean Water Act ("CWA"), 33 U.S.C. §§ 1251-1387, at facilities in Steubenville, Mingo Junction, Yorkville and Martins Ferry, Ohio. Prior to the Petition Date, the United States filed an action against RG Steel Wheeling, LLC, captioned as United States v. RG Steel Wheeling, LLC and Mountain State Carbon, LLC, Civil No. 12-0019 (N.D. W.Va.), which is currently pending. That action relates to some of the penalties asserted in the proof of claim filed by the United States (as defined below).

4. The United States contends that Debtor RG Steel Wheeling, LLC is liable to the United States for civil penalties of up to \$37,500 per day per violation due to Debtor's asserted failure to comply with the applicable regulations promulgated by appropriate state and federal authorities and permits issued by the appropriate state authorities under the Clean Air Act, RCRA and the Clean Water Act.

5. On November 23, 2012, the United States Environmental Protection Agency filed proof of claim number 2317 against RG Steel Wheeling, LLC stating a claim for recovery of an amount to be determined by a court or by agreement of the parties regarding the above-described alleged violations ("Proof of Claim No. 2317"). The Proof of Claim included a protective filing for work obligations.

6. The Debtors and the EPA have agreed to this Stipulation as a full and final resolution of the claim for civil penalties described in Proof of Claim No. 2317.

7. By entering into this Stipulation, Debtors do not admit any liability to the United States arising out of the transactions or occurrences alleged by EPA (as defined below) or DOJ (as defined below). This Stipulation constitutes a settlement of disputed claims to avoid the expense of litigation. Debtors deny the allegations that violations occurred or that the proposed penalties are appropriate. Nothing in the allegations, the proposed penalties, this Stipulation, or the signing, execution or implementation of this Stipulation constitutes an admission or evidence of, or shall be treated as an admission or evidence of, any allegation or of any violation of the statutes and regulations referred to herein, in any litigation or forum whatsoever.

8. The United States and Debtors agree, and this Court by entering an order approving this Stipulation finds, that this Stipulation has been negotiated by the Parties in good faith, that settlement of this matter will avoid prolonged and complicated litigation between the Parties and that this Stipulation is fair, reasonable and in the public interest.

The Claims Relating to Debtor RG Steel Warren, LLC (Case No. 12-11666)

9. The United States (as defined below) has asserted a claim for civil penalties against RG Steel Warren, LLC, one of the Debtors, for its asserted violations of the CAA at its former facility in Warren, Ohio.

10. The United States contends that Debtor RG Steel Warren, LLC is liable to the United States for civil penalties of up to \$37,500 per day per violation due to Debtor's asserted failure to comply with the applicable regulations promulgated by appropriate state and federal authorities and permits issued by the appropriate state authorities under the Clean Air Act.

11. On November 23, 2012, the United States Environmental Protection Agency filed proof of claim number 2318 against RG Steel Warren, LLC stating a claim for recovery of an amount to be determined by a court or by agreement of the parties regarding the above-described alleged violations ("Proof of Claim No. 2318"). The Proof of Claim included a protective filing for work obligations.

12. The Debtors and the EPA have agreed to this Stipulation as a full and final resolution of the claim for civil penalties described in Proof of Claim No. 2318.

13. By entering into this Stipulation, Debtors do not admit any liability to the United States arising out of the transactions or occurrences alleged by EPA (as defined below) or DOJ (as defined below). This Stipulation constitutes a settlement of disputed claims to avoid the expense of litigation. Debtors deny the allegations that violations occurred or that the proposed penalties are appropriate. Nothing in the allegations, the proposed penalties, this Stipulation, or the signing, execution or implementation of this Stipulation constitutes an admission or evidence of, or shall be treated as an

admission or evidence of, any allegation or of any violation of the statutes and regulations referred to herein, in any litigation or forum whatsoever.

14. The United States and Debtors agree, and this Court by entering an order approving this Stipulation finds, that this Stipulation has been negotiated by the Parties in good faith, that settlement of this matter will avoid prolonged and complicated litigation between the Parties and that this Stipulation is fair, reasonable and in the public interest.

The Claims Relating to Debtor RG Steel Sparrows Point, LLC (Case No. 12-11668)

15. The United States (as defined below) has asserted a claim for civil penalties against RG Steel Sparrows Point, LLC, one of the Debtors, for asserted violations of the CAA at its former facility in Sparrows Point, Maryland.

16. The United States contends that Debtor RG Steel Sparrows Point, LLC is liable to the United States for civil penalties of \$8,431.38 for violation of a Consent Agreement and Final Order, filed May 16, 2012, for an alleged violation of the Clean Air Act.

17. On November 23, 2012, the United States Environmental Protection Agency filed proof of claim number 2321 against RG Steel Sparrows Point, LLC stating a claim for recovery of a civil penalty of \$8,431.38 ("Proof of Claim No. 2321"). The Proof of Claim included a protective filing for work obligations.

18. The Debtors and the EPA have agreed to this Stipulation as a full and final resolution of the claims for civil penalties described in Proof of Claim No. 2321.

19. By entering into this Stipulation, Debtors do not admit any liability to the United States arising out of the transactions or occurrences alleged by EPA (as defined below) or DOJ (as defined below). This Stipulation constitutes a settlement of disputed claims to avoid the expense of litigation. Debtors deny the allegations that violations occurred or that the proposed penalties are appropriate. Nothing in the allegations, the proposed penalties, this Stipulation, or the signing, execution or implementation of this Stipulation constitutes an admission or evidence of, or shall be treated as an

admission or evidence of, any allegation or of any violation of the statutes and regulations referred to herein, in any litigation or forum whatsoever.

20. The United States and Debtors agree, and this Court by entering an order approving this Stipulation finds, that this Stipulation has been negotiated by the Parties in good faith, that settlement of this matter will avoid prolonged and complicated litigation between the Parties and that this Stipulation is fair, reasonable and in the public interest.

IN CONSIDERATION OF THE FOREGOING, THE PARTIES FURTHER AGREE THAT:

II. JURISDICTION AND VENUE

21. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157, 1331, 1334, 1345, and 1355. This is a core proceeding under 28 U.S.C. § 157(b)(2). Debtors and the EPA consent to and further stipulate that they will not challenge entry of an order approving this Stipulation or this Court's jurisdiction to enter and enforce this Stipulation, subject to Paragraph 34 of this Stipulation. Venue is proper under 28 U.S.C. §§ 1408 and 1409.

III. PARTIES BOUND

22. This Stipulation is binding upon the United States and upon Debtors and their successors and assigns. Any change in ownership or corporate or other legal status of Debtors including, but not limited to, any transfer of assets or real or personal property, shall in no way alter the status or responsibilities of Debtors under this Stipulation.

IV. DEFINITIONS

23. Unless otherwise expressly provided herein, terms used in this Stipulation which are defined in the Clean Air Act, Clean Water Act, RCRA or in regulations promulgated under the Clean Air Act, Clean Water Act or RCRA will have the meaning assigned to them in the relevant statute or in such regulations. Whenever terms listed below are used in this Stipulation or in any appendix attached hereto, the following definitions will apply:

- a. *Stipulation* means this stipulation and all appendices attached hereto (in the event of conflict between this Stipulation and any appendix, the Stipulation shall control);
- b. *Clean Air Act*, or *CAA* mean the Clean Air Act, as amended, 42 U.S.C. § 7401-7671q;
- c. *Clean Water Act*, or *CWA* means the Clean Water Act, as amended, 33 U.S.C. §§ 1251-1387;
- d. *Debtors*, *Debtors'*, or *Debtor* means WP Steel Venture LLC; RG Steel Wheeling, LLC; RG Steel Warren, LLC; and RG Steel Sparrows Point, LLC.
- e. *DOJ* means the United States Department of Justice and any successor departments, agencies or instrumentalities of the United States;
- f. *EPA* means the United States Environmental Protection Agency and any successor departments, agencies or instrumentalities of the United States;
- g. *Paragraph* means a portion of this Stipulation identified by an Arabic numeral or an upper or lower case letter;
- h. *Parties* means the United States and Debtors;
- i. *Proof of Claim*, *POC*, or *Claim* means the Claims filed by the United States on behalf of the United States Environmental Protection Agency ("EPA") in this matter seeking civil penalties for Debtors' alleged violation of regulations propounded and permits issued under the CAA, CWA and RCRA;
- j. *Resource Conservation and Recovery Act*, or *RCRA* means the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901 et seq.;
- k. *Section* means a portion of this Stipulation identified by a Roman numeral.

V. ALLOWANCE OF CLAIMS

24. Subject to entry of an order approving this Stipulation, Proof of Claim No. 2317 is hereby amended and allowed in the bankruptcy case of RG Steel Wheeling, LLC in the amount of FIFTEEN

MILLION, SEVEN HUNDRED FORTY-EIGHT THOUSAND, TWO HUNDRED NINETY FIVE dollars (\$15,748,295.00) as a general, pre-petition unsecured claim without any further filing or action by the United States and such allowance may not be subject to any further objection by the Debtors or any other party.

25. Subject to entry of an order approving this Stipulation, Proof of Claim No. 2318 is hereby amended and allowed in the bankruptcy case of RG Steel Warren, LLC in the amount of FOUR MILLION, ONE HUNDRED THIRTY-TWO THOUSAND, SEVEN HUNDRED SEVENTY-SIX dollars (\$4,132,776.00) as a general, pre-petition unsecured claim without any further filing or action by the United States and such allowance may not be subject to any further objection by the Debtors or any other party.

26. Subject to entry of an order approving this Stipulation, Proof of Claim No. 2321 is hereby amended and allowed in the bankruptcy case of RG Steel Sparrows Point, LLC in the amount of EIGHT THOUSAND, FOUR HUNDRED THIRTY-ONE dollars (\$8,431.00) as a general, pre-petition unsecured claim without any further filing or action by the United States and such allowance may not be subject to any further objection by the Debtors or any other party. Nothing herein alters or modifies the obligations with respect to the escrow established for funding offshore work at Sparrows Point set forth in that certain order, dated August 15, 2012 [Docket No. 909].

27. The allowance of Proof of Claim No. 2317, Proof of Claim No. 2318 and Proof of Claim No. 2321 (the "Allowed General Unsecured Claims") will be effective upon entry by the Court of an order approving this Stipulation. In the event a plan of reorganization is confirmed in the Debtors' bankruptcy case (the "Plan"), the Allowed General Unsecured Claims will receive the same treatment under the Plan, without discrimination, as other general unsecured claims with all attendant rights provided by the Bankruptcy Code. In no event will the Allowed Unsecured Claims be subordinated pursuant to any provision of the Plan or Bankruptcy Code to any other general unsecured claim.

28. Nothing herein resolves any and all compliance and work obligations of Debtors or any liquidating trusts under RCRA. Debtors continue to have potential environmental liabilities for properties that remain part of the bankruptcy estates and/or for the migration of hazardous substances from property of its bankruptcy estates, including any contaminated parcels excluded from the sale of assets, including but not necessarily limited to: a trapezoidal parcel on the north end of Tract 1 of the Martins Ferry Facility; and the pipeline and associated tanks, drip legs and other appurtenances that transport coke oven gas condensate from the Follansbee Facility through the Steubenville Facility, along the railroad right-of-way to Mingo Junction. For the avoidance of doubt, the Debtors dispute such asserted liabilities. The parties to this Stipulation reserve all rights and defenses with respect to such potential liabilities.

VII. NOTICES AND SUBMISSIONS

29. Cash distributions to the United States pursuant to this Stipulation shall be made at <https://www.pay.gov> or by FedWire Electronic Funds Transfer in accordance with instructions, including a Consolidated Debt Collection System ("CDCS") number, to be provided to the Debtors by the Financial Litigation Unit of the United States Attorney's Office for the District of Delaware.

30. Non-cash distributions to the United States shall be made to:

U.S. EPA
Cincinnati Finance Center
Attn: Accounts Receivable Branch
EPA/OFCO/OFS/CFC/ARB
4411 Montgomery Road
Suite 310
Cincinnati, OH 45212

31. At the time of any cash or non-cash distribution pursuant to this Stipulation, the Debtors shall transmit written confirmation of such distribution to the United States, with a reference to Bankruptcy Case Number 12-11661 (D. Del.), the CDCS number, and the DOJ File No. 90-7-1-10607.

32. Whenever, under the terms of this Stipulation, notice is required to be given or a document is required to be sent by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other

Parties, in writing. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Stipulation with respect to the United States and Debtors, respectively.

As to the United States:

Michael J. Zoeller, Esq.
U. S. Department of Justice
Environmental & Natural Resources Division
Environmental Enforcement Section
P.O. Box 7611
Washington, D.C. 20044-7611
202.305-1478
202.616.6584 (fax)

and

Assistant Administrator
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N. W.
Washington, D.C. 20460

As to WP Steel Venture LLC, et al.:

Matthew A. Feldman
Shaunna D. Jones
Willkie Farr & Gallagher LLP
787 Seventh Avenue
New York, NY 10019

and

Robert J. Dehney
Morris, Nichols, Arsht & Tunnell
1201 N. Market Street
P.O. Box 1347
Wilmington, DE 19899-13473

VIII. MISCELLANEOUS

33. This Stipulation constitutes the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Stipulation. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Stipulation.

34. This Stipulation shall be lodged with the Court and shall thereafter be subject to a period of public comment following publication of notice of the Stipulation and Agreed Order in the Federal

Register. After the conclusion of the public comment period, the United States will file with the Court any comments received, as well as the United States' responses to the comments, and at that time, if appropriate, the United States will request approval of the Stipulation. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Stipulation disclose facts or considerations which indicate that the Stipulation is not in the public interest.

35. Debtors' entry into this Stipulation is subject to the approval of the Court. Debtors agree to exercise all reasonable efforts to obtain the prompt approval of the Court and to obtain such approval no later than the Court's confirmation of the Plan.

36. Within two (2) business days of entry by the Court of an order not subject to appeal approving this Stipulation, the United States shall file in the United States District Court for the Northern District of West Virginia a motion to dismiss with prejudice all claims against RG Steel Wheeling, LLC in the civil action captioned United States v. RG Steel Wheeling, LLC, et al., Case No. 12-cv-0019 (N.D. W.Va.). Nothing herein shall affect the United States' action pending against parties other than Debtor RG Steel Wheeling, LLC in Case No. 12-CV-0019, including parties in which RG Steel Wheeling has an interest.

37. If for any reason (a) the Stipulation is withdrawn by the United States as provided in Paragraph 34, or (b) the Stipulation is not approved by the Court: (i) this Stipulation shall be null and void, and the parties hereto shall not be bound under the Stipulation or under any documents executed in connection herewith; (ii) the parties shall have no liability to one another arising out of or in connection with this Stipulation or under any documents executed in connection herewith; and (iii) this Stipulation and any documents prepared in connection herewith shall have no residual or probative effect or value.

38. The parties hereto irrevocably and unconditionally consent to submit to the jurisdiction of the Court for any litigation arising out of or relating to resolution of the claims for civil penalties

addressed in this Stipulation and agree not to commence any litigation relating thereto except in this Court.

IX. EFFECTIVE DATE

39. The effective date of this Stipulation shall be the date upon which it is entered by the Court.

X. SIGNATORIES SERVICE

40. Each of the undersigned representatives of each Party to this Stipulation and the Deputy Section Chief for the Environmental Enforcement Section of the Environment and Natural Resources Division certify that he or she is authorized to enter into the terms and conditions of this Stipulation and to execute and bind legally such Party to this document.

XI. COSTS

41. The United States and Debtors will each bear their own costs and attorneys' fees in this action.

STIPULATION:

In re: WP STEEL VENTURE LLC, et al.,
Bankruptcy Case No. 12-11661 (KJC)
District of Delaware

Agreed as to form and substance:

FOR THE UNITED STATES OF AMERICA:

DATED

Ignacia S. Moreno
Assistant Attorney General
Environment and Natural Resources Division
United State Department of Justice
P.O. Box 7611
Washington, D.C. 20044

DATED

THOMAS MARIANI
Deputy Chief
Environmental Enforcement Section
Environment and Natural Resources Division
United States Department of Justice
P.O. Box 7611
Washington, D.C. 20044

DATED

MICHAEL J. ZOELLER
Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
United States Department of Justice
Post Office Box 7611
Washington, D.C. 20044

STIPULATION::

**In re: WP STEEL VENTURE LLC, et al.,
Bankruptcy Case No. 12-11661 (KJC)
District of Delaware**

**FOR THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY:**

DATED

CYNTHIA GILES

**Assistant Administrator for Enforcement
and Compliance Assurance
Office of Site Remediation Enforcement
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460**

STIPULATION:

In re: WP STEEL VENTURE LLC, et al.,
Bankruptcy Case No. 12-11661 (KJC)
District of Delaware

FOR THE DEBTORS:

WP Steel Venture LLC, et al.

By:



RICHARD D. CARUSO
Chief Financial Officer
WP Steel Venture LLC

DATED: 3/29/13

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
WHEELING DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	
)	
RG STEEL WHEELING, LLC (formerly	)	CIVIL ACTION NO. 5:12-CV-19
known as SEVERSTAL WHEELING, LLC,)	
SEVERSTAL WHEELING, INC., and	)	Complaint Filed: February 6, 2012
WHEELING PITTSBURGH STEEL CORP.))	
and MOUNTAIN STATE CARBON, LLC,)	
)	
Defendants.)	
)	
)	

**DEFENDANTS' FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS**

Pursuant to Federal Rules of Civil Procedure 33 and 34, Defendants RG Steel Wheeling, LLC ("RG Steel Wheeling") and Mountain State Carbon, LLC ("Mountain State Carbon") (collectively "Defendants")¹ hereby request that the United States of America ("Plaintiff" or "United States") provide all information and produce all documents that are responsive to these discovery requests consistent with the Federal Rules of Civil Procedure and the following Instructions and Definitions.

INSTRUCTIONS

A. Time and place of production. Plaintiff shall produce all documents responsive to these requests by delivering copies of the documents to the undersigned counsel for Defendants along

¹ Pursuant to this Court's Order of August 23, 2012, SNA Carbon, LLC has been dismissed as a defendant. Therefore, SNA Carbon, LLC, is no longer a party to this action.

with the written response to these requests; or at such other time, place, or manner otherwise mutually agreed to by the parties to this case.

B. Definitions. In responding to the following Interrogatories and Requests for Production of Documents, you should apply the definitions in Northern District of West Virginia Local Rule of Civil Procedure 26.02, your First Set of Interrogatories, and Requests for Production of Documents, except as modified below.

C. Manner of production. Plaintiff shall produce all documents and respond to all interrogatories in a manner consistent with the Federal Rules of Civil Procedure and the procedures outlined in the Initial Planning Meeting Report and Proposed Discovery Plan ("Discovery Plan").

D. Time period of discovery. In accordance with the Discovery Plan, unless otherwise indicated these requests for production of documents apply to documents created from August 1, 2003, to February 6, 2012.

F. Incomplete response. If any production of documents cannot be made fully, as full of a production as possible should be provided. State the reason for the inability to produce all documents, and give any information, knowledge, or belief which Plaintiff has regarding the unproduced portion.

F. Identification of documents and persons. All requests to "identify" a document or person must be answered in compliance with Local Rule of Civil Procedure 26.02.

G. Identification of acts, etc. When asked to identify an act, omission, occurrence, occasion, violation, statement, conduct, oral statement, communication, conference or conversation, visit, or presence, state separately, as to each such act, alleged omission,

occurrence, statement, conduct, oral statement, communication, conference or conversation, visit, or presence the following information:

- (a) its date and the place where it occurred;
- (b) its substance;
- (c) the identity of each person participating in or observing it;
- (d) the identity of all notes, memoranda or other documents memorializing, referring

to or relating to the subject matter thereof.

H. Singular and plural, gender, and tense. Unless the context clearly requires otherwise, any word importing (a) the singular includes the plural, (b) one gender includes the other gender, and (c) the past tense includes the present tense, and vice versa.

I. Vague or burdensome. Produce all responsive documents to the best of your ability and in good faith, preserving any bona fide objections if necessary. Defendants expect that you will attempt to obtain clarification or delimiting of these requests for production of documents from the undersigned counsel if you legitimately maintain that they are vague or burdensome. No request for production of documents shall be construed to limit any other request for production of documents.

DEFINITIONS

A. “**AND**” shall mean “**OR**” and *vice versa*, and both terms shall be construed either disjunctively or conjunctively to bring within the scope of these interrogatories any information that might otherwise be construed to be outside their scope.

- B. **"ABOVE MATTER"** or **"INSTANT CASE"** shall mean the litigation filed by the United States of America ("Plaintiff") in the United States District Court for the Northern District of West Virginia before Chief Judge John Preston Bailey, Civil Action No. 5:12-cv-19.
- C. **"COMPLAINT"** shall mean the Complaint filed by the United States of America against RG Steel Wheeling, LLC (formerly known as Severstal Wheeling, LLC, Severstal Wheeling, Inc., and Wheeling Pittsburgh Steel Corp.), Mountain State Carbon, LLC, and SNA Carbon, LLC, in the Northern District of West Virginia on February 6, 2012, in Cause No. 5:12-cv-19, and any subsequent amended complaint or supplemental pleading in that action.
- D. **"COMMUNICATION"** means every manner or means of disclosure, transfer or exchange, and every disclosure, transfer or exchange of information whether orally or by document or whether face-to-face, by telephone, mail, email, SMS text, voicemail, personal delivery, meeting, any electronic means, or otherwise.
- E. **"DOCUMENT"** shall mean any recording of information in tangible form, including ELECTRONICALLY STORED INFORMATION (ESI), subject to Part III.B.1.c of the Discovery Plan. The term "Document" includes, but is not limited to, memoranda, inter-office communications, electronic mail (e-mail), agreements, contracts, journals, ledgers, telegrams, handwritten notes, pamphlets, computer or business machine print-outs, notations or records of meetings, diaries, statistics, minutes, contracts, studies, checks, receipts, returns, summaries, printers galleys, books, papers, speeches, material filed with government agencies, reports of any experts or consultants, any reproduction materials,

computer databases (including any program used to facilitate the opening, reviewing, or locating of documents in databases or other electronic media), computer diskettes, or other forms of computer memory, or any tangible or physical objects however produced or reproduced upon which words or other information are affixed or recorded or from which, by appropriate transcription, written matter or a tangible thing may be produced, graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, microfiche, microfilm, recordings and motion pictures), electronic, mechanical or electric records or representations of any kind, including the originals and all non-identical copies, whether different from the originals by reason of any notation made, drafts, alterations, modifications, changes or amendments of any of the foregoing

- F. **“ELECTRONICALLY STORED INFORMATION”** or **“ESI”** shall have the fullest and most complete meaning allowable under the Federal Rules of Civil Procedure and shall include electronic mail (e-mail), instant messages (IM), voice-over-internet-protocol (VOIP), and other electronic Documents, sound recordings, images, and other data or data compilations stored in any medium from which information can be obtained or translated into reasonably usable form, including, but not limited to, any original, reproduction, duplicates or earlier version, whether or not containing material or non-material changes or alterations of earlier or duplicate versions of the ESI and whether or not in tangible or electronic form. In accordance with Part III.B.1.c of the Discovery Plan, the parties will meet and confer before collection of production of ESI.

- G. **"EPA"** shall mean the United States Environmental Protection Agency and any office or region thereof, as well as any attorney, employee, agent, partner, investigator, consultant, or representative, past or present, and all persons acting or purporting to act on behalf of same for any purpose whatsoever.
- H. **"EXPLAIN"** shall mean to describe what is requested, specifically and precisely, with reference to underlying facts and calculations, rather than only to ultimate facts or conclusions of law, and with detailed references to time, place, context, and methodology.
- I. **"FOLLANSBEE"** shall mean Defendants' coke production and by-products recovery facility in Follansbee, West Virginia described in the Complaint.
- J. The terms **"INCLUDE"** or **"INCLUDING"** or any form thereof denote a portion of a larger whole and are used without limitation.
- K. **"INTERROGATORIES"** shall mean Defendants' First Set of Interrogatories.
- L. **"MOUNTAIN STATE CARBON"** shall mean Defendant Mountain State Carbon, LLC, including any parent, subsidiary, or affiliate, or any other corporations presently or formerly affiliated with Mountain State Carbon, LLC. Furthermore, "Mountain State Carbon" shall include any agents, employees, attorneys, accountants, investigators, consultants or other persons acting or purporting to act for it or on its behalf.
- M. **"MINGO JUNCTION"** shall mean the integrated steel production facility at McLister Drive, Mingo Junction, Ohio where operations ceased in April 2009, and which is no longer owned nor operated by Defendant RG Steel Wheeling.

- N. **"PERSON"** or **"PERSONS"** shall mean any natural person, professional association, corporation, partnership, association, joint venture, agency, agent, board, federation, governmental agency, or any other entity.
- O. **"POSSESSION, CUSTODY, OR CONTROL"** shall mean and include the joint or several possession, custody, or control not only by the Plaintiff, but also the joint or several possession, custody, or control by any other person acting on behalf of the Plaintiff, whether as an employee, attorney, accountant, agent, expert, fiduciary or trustee, medical service provider, or otherwise.
- P. A request for information or documents **"REFERRING TO"** (and/or any form thereof), **"RELATING TO"** (and/or any form thereof), **"CONCERNING"** (and/or any form thereof), **"INVOLVING"** (and/or any form thereof), **"REGARDING"** (and/or any form thereof), or **"REFLECTING"** (and/or any form thereof) a given subject matter shall be construed in the broadest sense and shall include information that, directly or indirectly, constitutes, embodies, comprises, reflects, represents, supports, contradicts, identifies, records, notes, mentions, states, refers to, refutes, reports upon, responds to, describes, discusses, studies, analyzes, evaluates, contains information concerning, or is in any way pertinent or relevant to that subject matter. As indicated, the term necessarily includes information that is in opposition to as well as in support of your position(s) and claim(s) in this action.
- Q. **"REQUESTS," "REQUESTS FOR PRODUCTION" or "DOCUMENT REQUESTS"** shall mean Defendants' First Request for Production of Documents served concurrently to this First Set of Interrogatories.

- R. **“RG STEEL WHEELING”** shall mean the defendant RG Steel Wheeling, LLC, formerly known as Severstal Wheeling, LLC, Severstal Wheeling Inc., and Wheeling Pittsburgh Steel Corporation, and any predecessor, successor, or related entity, and all officers, directors, shareholders, agents, attorneys, representatives, independent contractors and any other individual, partnership, corporation or any other group acting on its behalf.
- S. **“STEUBENVILLE”** or **“STEUBENVILLE NORTH”** shall mean the integrated steel production facility at South Third Street, Steubenville, Ohio, where operations ceased in August 2008 and which is no longer owned nor operated by Defendant RG Steel Wheeling.
- T. **“STEUBENVILLE COMPLEX”** shall mean, collectively, the Follansbee, Mingo Junction, and Steubenville facilities.
- U. **“YOU”** or **“YOUR”** shall mean Plaintiff the United States of America, the EPA, the National Enforcement Investigations Center, and/or the United States Department of Justice, in each case including any office or region thereof. Furthermore, “you” or “your” shall include any agents, employees, attorneys, accountants, investigators, consultants or other persons acting or purporting to act for you or on your behalf.
- V. **“UNITED STATES OF AMERICA,” “UNITED STATES”** or **“U.S.”** shall mean the United States of America and all its agencies and departments, including without limitation, the Department of Justice, the Environmental Protection Agency, the National Enforcement Investigations Center, and those departments’ and agencies’ agents and employees.

W. "WEST VIRGINIA DEP" shall mean the West Virginia Department of Environmental Protection, including any office or region thereof, and any agents, employees, attorneys, accountants, investigators, consultants or other persons acting or purporting to act on behalf of West Virginia Department of Environmental Protection.

INTERROGATORIES

1. Please IDENTIFY any and all DOCUMENTS upon which YOU intend to rely in any hearing, conference, meeting, motion, or trial in the ABOVE MATTER.

2. Please IDENTIFY any and all PERSONS employed or RELATED TO YOU who visited, attended, or were present at FOLLANSBEE, and any PERSON not RELATED TO YOU who accompanied YOU on such visit, attendance, or presence, including any representatives of the Ohio Environmental Protection Agency or WEST VIRGINIA DEP, and IDENTIFY the date, time, and duration of each such presence and the reason or nature of such presence.

3. Please IDENTIFY any and all PERSONS who provided information or DOCUMENTS relied upon in responding to each of these INTERROGATORIES and include in your answer the INTERROGATORY or INTERROGATORIES to which each such person contributed.

4. REGARDING the allegations in Paragraphs 90, 100, 120, 136, and 153, and 162, relating to FOLLANSBEE, please EXPLAIN the allegations that unless an injunction is entered against DEFENDANTS RG STEEL WHEELING and MOUNTAIN STATE CARBON, the alleged violations are likely to continue.

5. REGARDING the allegation in Paragraph 88 that FOLLANSBEE was not in compliance on “numerous” or “several” occasions with smoke and/or opacity limits observed by a certified inspector, including but not limited to the occasions set out in Appendices C, please EXPLAIN how YOU obtained the numbers shown on the referenced appendices, IDENTIFY any and all occasions YOU intend to allege in the ABOVE MATTER that FOLLANSBEE was not in compliance, and EXPLAIN how YOU IDENTIFIED any such occasions.

6. REGARDING the allegation in Paragraph 88 that FOLLANSBEE was not in compliance with smoke and/or opacity limits of West Virginia’s Air Pollution Control Act on the dates listed in Appendix C, and REGARDING the allegation in Paragraphs 59-60 that the Director of the WEST VIRGINIA DEP is authorized to commence a civil action for injunctive relief or civil penalties for violations of the West Virginia’s Air Pollution Control Act, please EXPLAIN the basis for your allegation that EPA has legal authority to commence and/or continue this action in Federal Court without the WEST VIRGINIA DEP’s participation.

7. REGARDING the allegation in Paragraph 98 that FOLLANSBEE was not in compliance on “numerous” or “several” occasions with 3-hour hydrogen sulfide limits, including but not limited to the occasions set out in Appendices E, please EXPLAIN how YOU obtained the numbers shown on the referenced Appendix, IDENTIFY any and all occasions YOU intend to allege in the ABOVE MATTER that FOLLANSBEE was not in compliance, and EXPLAIN how YOU IDENTIFIED any such occasions.

8. REGARDING the allegations in Paragraph 101, that FOLLANSBEE is subject to maximum penalties available under the federal Clean Air Act for alleged violations of the 3-hour hydrogen sulfide limits, please EXPLAIN why the potential penalty for each violation, if proved, is not limited by the stipulated penalty set out in Part VI.A.2.a of the Consent Decree entered by

the Northern District of West Virginia in *United States v. Wheeling-Pittsburgh Steel Corporation* (Civil Action No. 5:90-cv-915).

9. REGARDING the allegations in Paragraph 91, that FOLLANSBEE is subject to maximum penalties available under the federal Clean Air Act for alleged violations of the 1-hour or instantaneous opacity limits, please EXPLAIN why the potential penalty for each violation, if proved, is not limited by the stipulated penalty set out in Part VI.C of the Consent Decree entered by the Northern District of West Virginia in *United States v. Wheeling-Pittsburgh Steel Corporation* (Civil Action No. 5:93-cv-915).

10. Please IDENTIFY any and all steelmaking facilities which the United States has required to limit opacity or fugitive visible emissions to zero percent on emissions from an electric arc furnace (EAF), basic oxygen furnace (BOF), or other steelmaking equipment, and EXPLAIN the circumstances surrounding and compliance rate on any such "zero percent" emissions requirement.

11. REGARDING the allegations in Paragraphs 115, please EXPLAIN the basis for the allegation that coke oven gas condensate at the time of "generat[ion] at various places within" FOLLANSBEE is a solid waste.

12. REGARDING the allegations in Paragraphs 115 and 124, please IDENTIFY any and all facilities and instances in which EPA or any State has contended that coke oven gas condensate or any other material from a coke by-product facility is a "solid waste" under the Resource Conservation and Recovery Act or any similar State hazardous waste law, and EXPLAIN the circumstances and outcome including IDENTIFYING any penalties collected or injunctive relief agreed or imposed in connection with any and all such facilities and instances.

13. REGARDING the allegations in Paragraph 132, please EXPLAIN the allegation that purifier oil (also known as "muck oil") produced at FOLLANSBEE is a "solid waste" under the Resource Conservation and Recovery Act or West Virginia hazardous waste law, or both.

14. Please IDENTIFY any and all facilities and instances in the United States in which EPA or any State has contended that purifier oil (also known as "muck oil") or any other material from a coke by-product facility is a solid waste under the Resource Conservation and Recovery Act or any similar State hazardous waste law and EXPLAIN the circumstances and outcome including IDENTIFYING any penalties collected or injunctive relief agreed or imposed in connection with any and all such facilities and instances.

15. Please IDENTIFY any and all coke, coke by-product, and/or steel manufacturing facilities in the United State REGARDING which EPA has contended that Coke Oven Gas (COG) drip legs are "tanks" as that term is used under the Resource Conservation and Recovery Act or any State hazardous waste regulations, and EXPLAIN the circumstances and outcome including IDENTIFYING any penalties collected or injunctive relief agreed or imposed in connection with any and all such facilities and instances.

16. REGARDING the allegations in Paragraphs 140-143, please IDENTIFY any and all roll-off containers that YOU contend contained hazardous waste and EXPLAIN how YOU contend that FOLLANSBEE's sampling, tracking, labeling, storage, and handling of any such containers violated hazardous waste management regulations promulgated by YOU or the State of West Virginia.

17. REGARDING the allegations in Paragraphs 146-154 that there were violations of Subtitle I of the Resource Conservation and Recovery Act (RCRA) associated with alleged

underground storage tanks at FOLLANSBEE, please IDENTIFY any other coke, coke by-product, and/or steel manufacturing facilities at which EPA has determined Coke Oven Gas (COG) drip legs to be "tanks" or "underground storage tanks" as that term is used in RCRA Subtitle I or any State's regulations and EXPLAIN the circumstances and outcome of any such enforcement, including any civil penalties or injunctive relief imposed.

18. REGARDING the allegations in Paragraphs 146-154 that there were RCRA Subtitle I violations associated with alleged underground storage tanks at FOLLANSBEE, please EXPLAIN the basis for YOUR authority to bring a civil action to enforce Subtitle I in the absence of the relevant State's participation, and IDENTIFY each other instance in which YOU have brought a civil action to enforce Subtitle I at any coke, coke by-product, or steelmaking facility whether with or without the relevant State's participation.

19. REGARDING the allegations in Paragraphs 91, 101, 121, 137, and 154, and Prayers for Relief I, K, and M, IDENTIFY with respect to each such allegation and Prayer, the civil penalty that YOU request the Court to assess against each Defendant for alleged violations at FOLLANSBEE and EXPLAIN in detail the basis for any such civil penalties.

20. Please IDENTIFY any and all PERSONS employed or RELATED TO YOU who visited, attended, or were present at STEUBENVILLE NORTH and IDENTIFY the date, time, and duration of each such presence and the reason or nature of such presence, and any PERSON not RELATED TO YOU who accompanied you on such visit, attendance, or presence, including the Ohio Environmental Protection Agency or West Virginia Department of Environmental Protection.

21. Please IDENTIFY any and all PERSONS employed or RELATED TO YOU who visited, attended, or were present at MINGO JUNCTION, and any PERSON not RELATED TO YOU who accompanied YOU on such visit, attendance, or presence, including any representative of the Ohio Environmental Protection Agency or WEST VIRGINIA DEP, and IDENTIFY the date, time, and duration of each such presence and the reason or nature of such presence.

22. REGARDING the allegations in Paragraphs 80, 85, 95, and 105, relating to MINGO JUNCTION, and Paragraph 129 relating to MINGO JUNCTION and STEUBENVILLE, please EXPLAIN the allegations that unless an injunction is entered against RG STEEL WHEELING, the alleged violations are likely to continue.

23. REGARDING the allegations in Paragraph 78 that MINGO JUNCTION was not in compliance on “numerous” or “several” occasions with three-minute opacity limits, including but not limited to the occasions set out in Appendix A, please EXPLAIN how YOU obtained the numbers shown on the referenced Appendix, IDENTIFY any and all occasions YOU intend to allege in the ABOVE MATTER that MINGO JUNCTION was not in compliance, and EXPLAIN how YOU IDENTIFIED any such occasions.

24. REGARDING the allegations in Paragraph 83, that MINGO JUNCTION was not in compliance on “numerous” or “several” occasions with six-minute opacity limits, including but not limited to the occasions set out in Appendix B, please EXPLAIN how YOU obtained the numbers shown on the referenced Appendix, IDENTIFY any and all occasions YOU intend to allege in the ABOVE MATTER that MINGO JUNCTION was not in compliance, and EXPLAIN how YOU IDENTIFIED any such occasions.

25. REGARDING the allegations in Paragraph 93, that MINGO JUNCTION was not in compliance on “numerous” or “several” occasions with the 12-hour average hydrogen sulfide limit in coke oven gas burned at the facility, including but not limited to the occasions set out in Appendix D, please EXPLAIN how YOU obtained the numbers shown on the referenced Appendix, IDENTIFY any and all occasions YOU intend to allege in the ABOVE MATTER that MINGO JUNCTION was not in compliance, and EXPLAIN how YOU IDENTIFIED any such occasions.

26. REGARDING the allegations in Paragraph 93, that MINGO JUNCTION was not in compliance on “numerous” or “several” occasions with the 12-hour average hydrogen sulfide limit in coke oven gas burned at the facility, please IDENTIFY any information you have indicating that MINGO JUNCTION was burning coke oven gas, rather than natural gas, on the occasions set out in Appendix D, and EXPLAIN how that information shows that MINGO JUNCTION was burning coke oven gas in excess of the hydrogen sulfide limit at those dates and times.

27. REGARDING the allegations in Paragraph 103, that MINGO JUNCTION was not in compliance on “numerous” or “several” occasions with fugitive visible emissions of particulate matter from the electric arc furnace (EAF), including but not limited to the dates set out in Appendix F, please EXPLAIN how YOU obtained the numbers shown on the referenced Appendix, IDENTIFY any and all occasions YOU intend to allege in the ABOVE MATTER that the Facility was not in compliance, and EXPLAIN how YOU IDENTIFIED any such occasions.

28. REGARDING the allegations in Paragraphs 50-52 and 104 regarding emissions from the Electric Arc Furnace at MINGO JUNCTION, please IDENTIFY the Federal law that requires MINGO JUNCTION to limit opacity to zero percent on a six-minute block average at

the Electric Arc Furnace (EAF) and EXPLAIN the basis for EPA's authority to enforce the zero percent limits in Ohio EPA Permit to Install No. 06-07034, without participation in the ABOVE MATTER by the Ohio Environmental Protection Agency.

29. REGARDING the allegation in Paragraph 108, 109, and 110, that RG STEEL WHEELING violated the work practices on the Basic Oxygen Furnace at MINGO JUNCTION, please IDENTIFY any and all occasions on which YOU will allege in the ABOVE MATTER that RG STEEL WHEELING violated the work practices on the BOF and EXPLAIN the basis for these allegations.

30. REGARDING the allegations in Paragraphs 124, please EXPLAIN the basis for the allegation that coke oven gas condensate at the time of "generat[ion]" at various places within" MINGO JUNCTION and STEUBENVILLE is a solid waste.

31. REGARDING the allegations in Paragraphs 81, 86, 96, 106, 112, 130, and 163, and Prayers for Relief C, D, E, and F, IDENTIFY with respect to each Prayer the civil penalty that YOU request the Court to assess against Defendant RG STEEL WHEELING for alleged violations at MINGO JUNCTION and STEUBENVILLE and EXPLAIN in detail the basis for any such civil penalties.

REQUESTS FOR PRODUCTION OF DOCUMENTS

- RFP 1.** Please produce ALL DOCUMENTS upon which YOU intend to rely in any hearing, conference, meeting, motion, or trial in the ABOVE MATTER.
- RFP 2.** Please produce ALL DOCUMENTS that are IDENTIFIED, REFERRED TO, reviewed, utilized, consulted, relied upon, or used in any way in your Responses to each of the INTERROGATORIES.
- RFP 3.** Please produce ALL DOCUMENTS that are IDENTIFIED or REFERRED TO in the Complaint, including but not limited to the DOCUMENTS referred to in Paragraphs 1.d, 4-7, and 53.
- RFP 4.** Please produce ALL DOCUMENTS RELATING TO EPA's approval of the Ohio or West Virginia State Implementation Plans (SIPs) referenced, *inter alia*, in paragraphs 26, 27, and 50 of the Complaint and any revisions thereto RELATING TO regulations applicable to opacity or hydrogen sulfide violations alleged in the Complaint to have occurred at FOLLANSBEE or MINGO JUNCTION.
- RFP 5.** Please produce ALL DOCUMENTS REFLECTING communications within EPA or between EPA and Ohio, West Virginia, or any person not a party to this Matter, RELATING TO the ABOVE MATTER, including but not limited to the notices of commencement of this civil action referenced in Paragraphs 6 and 7 of the Complaint, the Administrative Consent Orders referenced in Paragraph 1.d and 53, the NOV/FOV referenced in paragraph 5, and any communications relating thereto.

- RFP 6.** Please produce the West Virginia Department of Environmental Protection Class I Operating Permit, R30-00900002-2010, for operation of emission sources at Mountain State Carbon's FOLLANSBEE Facility referenced in Paragraphs 47-49 of the Complaint.
- RFP 7.** Please produce ALL DOCUMENTS RELATING TO the allegation in Paragraph 88 REGARDING smoke and/or opacity observations and limits at FOLLANSBEE, including but not limited to the occasions set out in Appendix C, and any and all data YOU IDENTIFY in response to INTERROGATORY No. 5.
- RFP 8.** Please produce ALL DOCUMENTS RELATING TO the allegation in Paragraph 98 REGARDING the 3-hour hydrogen sulfide values and limits in coke oven gas burned at FOLLANSBEE, including but not limited to the values and limits set out in Appendices E, and ANY DOCUMENTS RELATING TO the values and limits YOU IDENTIFY in response to INTERROGATORY No. 7.
- RFP 9.** Please produce ALL DOCUMENTS RELATING TO ANY steelmaking facility YOU IDENTIFY in response to INTERROGATORY No. 10 at which EPA or any relevant state has required to limit opacity or fugitive visible emissions from an electric arc furnace (EAF), basic oxygen furnace (BOF), or other steelmaking equipment to zero percent over any averaging period and the circumstances surrounding and compliance rate on any such "zero percent" emissions requirement.

- RFP 10.** Please produce ALL DOCUMENTS RELATING TO the allegations in Paragraph 115 of the Complaint that coke oven gas condensate is a solid waste within FOLLANSBEE.
- RFP 11.** Please produce ALL DOCUMENTS RELATING TO ANY facilities or instances YOU IDENTIFY in response to INTERROGATORY No. 12 in which EPA or any State has contended that coke oven gas condensate or any other material from a coke by-product facility is a "solid waste" under the Resource Conservation and Recovery Act or any similar State hazardous waste law and EXPLAIN the circumstances and outcome including IDENTIFYING any penalties collected or injunctive relief agreed or imposed in connection with any and all such facilities and instances.
- RFP 12.** Please produce ALL DOCUMENTS RELATING TO the allegation in Paragraph 132 of the Complaint that purifier oil (also known as "muck oil") produced at FOLLANSBEE was a "solid waste" under the Resource Conservation and Recovery Act or West Virginia hazardous waste law, or both.
- RFP 13.** Please produce ALL DOCUMENTS RELATING TO any facility or instance YOU IDENTIFY in response to INTERROGATORY No. 14 in which EPA or any relevant state has contended that purifier oil (also known as "muck oil") or any other material from a coke by-product facility is a solid waste under the Resource Conservation and Recovery Act or any similar state hazardous waste law.

RFP 14. Please produce ALL DOCUMENTS RELATING TO any facility or instance YOU IDENTIFY in response to INTERROGATORY No. 15 any and all coke, coke by-product, and steel manufacturing facilities, or any of them, REGARDING which EPA has contended that COG drip legs are “tanks” as that term is used under the Resource Conservation and Recovery Act or any state hazardous waste regulation.

RFP 15. Please produce ALL DOCUMENTS RELATING TO the allegations in Paragraphs 140-143 of the Complaint REGARDING roll-off containers at FOLLANSBEE that contained hazardous waste how FOLLANSBEE’s sampling, tracking, labeling, storage, and handling of any such containers violated hazardous waste management regulations promulgated by EPA or the State of West Virginia.

RFP 16. Please produce ALL DOCUMENTS RELATING TO any other coke, coke by-product, or and steel manufacturing facilities that YOU IDENTIFY in response to INTERROGATORY No. 17 at which EPA has determined Coke Oven Gas (COG) drip legs to be “tanks” or “underground storage tanks” as that term is used in RCRA Subtitle I or any state’s regulations.

RFP 17. Please produce ALL DOCUMENTS RELATING TO your response to INTERROGATORY No. 19 regarding the civil penalty for each Defendant.

RFP 18. Please produce ALL DOCUMENTS RELATING TO the RCRA Facility Investigation for the STEUBENVILLE COMPLEX including the results of all of the field sampling and testing conducted circa 2005 submitted by Defendants to

Ms. Estena McGhee of EPA Region 3, and the RFI Investigation Report that preceded the RCRA Facility Investigation including the "Description of Current Conditions" (August 31, 1998) and "RCRA Facility Investigation Workplan"(November 5, 1999).

RFP 19. Please produce ALL DOCUMENTS listed in YOUR Rule 26 Initial Disclosures including, but not limited to, periodic reports submitted to government environmental authorities regarding visible air emissions, H2S concentration in coke oven gas, Basic Oxygen Furnace work practices, general operations and related information; air permits, permit application materials and correspondence; notices to government environmental authorities regarding exceedances of and variances to federal and state regulations, permits, consent decrees and orders; notices of violation and findings of violation issued by U.S. EPA and Ohio EPA; inspection reports and field notes of EPA personnel; reports submitted to government environmental authorities regarding RCRA and CAA compliance investigations; facility or aerial photographs; NEIC inspection reports; visible emission observation reports; and an October 2008 inspection report of coke oven stack emissions.

RFP 20. Please produce ALL DOCUMENTS RELATING TO the investigation of FOLLANSBEE by the National Enforcement Investigations Center that included an on-site inspection in September 2007, including, but not limited to, notes or memoranda by ANY PERSON RELATING TO the on-site inspection, any draft

and final report(s) prepared by the National Enforcement Investigations Center as a result of the inspection, and ANY supporting DOCUMENTS.

RFP 21. Please produce ALL DOCUMENTS RELATING TO your response to INTERROGATORY No. 19 REGARDING the civil penalties YOU request the Court to assess against each Defendant for alleged violations at FOLLANSBEE.

RFP 22. Please produce ALL DOCUMENTS RELATING TO your response to INTERROGATORY No. 31 REGARDING the civil penalties YOU request the Court to assess against Defendant RG STEEL WHEELING for civil penalties at MINGO JUNCTION and STEUBENVILLE.

RFP 23. Please produce the Ohio EPA Permit to Install No. 06-07034 authorizing RG Steel to operate an electric arc furnace (EAF) at the MINGO JUNCTION Facility referenced in Paragraphs 50-52 of the Complaint.

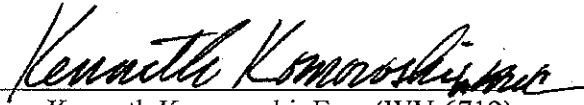
RFP 24. Please produce ALL DOCUMENTS RELATING TO the U.S. EPA Notice of Violation and Finding of Violation ("NOV/FOV") in Docket No. EPA-5-06-WV-09 for alleged violations arising at the STEUBENVILLE and MINGO JUNCTION Facilities.

RFP 25. Please produce ALL DOCUMENTS RELATING TO the allegation in Paragraph 78 of the Complaint, REGARDING three-minute opacity values and limits at MINGO JUNCTION, including but not limited to the data set out in Appendix A, and any other data YOU IDENTIFY in response to the INTERROGATORY NO. 20.

- RFP 26.** Please produce ALL DOCUMENTS RELATING TO the allegation in Paragraph 83, REGARDING six-minute opacity values and limits at MINGO JUNCTION, including but not limited to the values and limits set out in Appendix B, and any data YOU IDENTIFY in response to INTERROGATORY No. 20.
- RFP 27.** Please produce ALL DOCUMENTS RELATING TO the allegation in Paragraph 93, REGARDING the 12-hour average hydrogen sulfide values and limits in coke oven gas burned at the MINGO JUNCTION, including but not limited DOCUMENTS RELATING TO the values and limits set out in Appendix D, and any data YOU IDENTIFY in response to INTERROGATORIES No. 25 and 26.
- RFP 28.** Please produce ALL DOCUMENTS RELATING TO the allegation in Paragraph 103 REGARDING the 6-minute block average on fugitive visible emissions at MINGO JUNCTION, including ANY DOCUMENTS RELATING TO the values and limits YOU IDENTIFY in response to INTERROGATORY No. 27.
- RFP 29.** Please produce ALL DOCUMENTS RELATING TO the allegations in Paragraphs 108, 109, and 110, that RG STEEL WHEELING violated the work practices on the Basic Oxygen Furnace at MINGO JUNCTION, and ANY additional violations you allege in response to INTERROGATORY No. 29.
- RFP 30.** Please produce ALL DOCUMENTS RELATING TO the allegations in Paragraph 124 that coke oven gas condensate is a solid waste within MINGO JUNCTION AND STEUBENVILLE.

Respectfully submitted:

Date: March 7, 2013

A handwritten signature in black ink, reading "Kenneth Komoroski". The signature is written in a cursive style and is positioned above a horizontal line.

Kenneth Komoroski, Esq. (WV 6712)

kkomoroski@fulbright.com

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370 Southpointe Boulevard

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Canonsburg, Pennsylvania 15317

Telephone: (724) 416-0400

Facsimile: (724) 416-0404

Counsel for Defendants *RG Steel Wheeling LLC*
and *Mountain State Carbon LLC*

CERTIFICATE OF SERVICE

I hereby certify that, on March 7, 2013, the foregoing **DEFENDANTS' FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS** was served via Federal Express courier for overnight delivery on March 8, 2013, on the below-listed Counsel for Plaintiff:

Michael J. Zoeller
U.S. Department of Justice
Environmental and Natural Resources Division
601 D. Street, NW
ENRD Mail Room 2121
Washington, DC 20004
michael.zoeller@usdoj.gov

Betsy Steinfeld Jividen
U.S. Attorney's Office – Wheeling
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Wheeling, WV 26003
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John Sither
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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
WHEELING DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	
)	
RG STEEL WHEELING, LLC (formerly	)	CIVIL ACTION NO. 5:12-CV-19
known as SEVERSTAL WHEELING, LLC,)	
SEVERSTAL WHEELING, INC., and	)	<i>Complaint Filed: February 6, 2012</i>
WHEELING PITTSBURGH STEEL CORP.))	
and MOUNTAIN STATE CARBON, LLC,)	
)	
Defendants.)	
)	
)	

**FIRST SUPPLEMENTAL RULE 26 DISCLOSURES
OF DEFENDANTS RG STEEL WHEELING, LLC,
AND MOUNTAIN STATE CARBON, LLC**

Pursuant to Federal Rule of Civil Procedure 26(e)(1)(A) and the Court's Order of July 24, 2012, Defendants RG Steel Wheeling, LLC ("RG Steel Wheeling") and Mountain State Carbon, LLC ("Mountain State") (collectively "Defendants")¹ make the following supplemental disclosures:

1. In addition to the names and/or telephone numbers, where known, provided in Paragraph 1 of Defendants' Initial Disclosures served on September 24, 2013, which are incorporated by reference as if fully set out herein, Defendants disclose the following individuals

¹ Pursuant to this Court's Order of August 23, 2012, SNA Carbon, LLC has been dismissed as a defendant. Therefore, SNA Carbon, LLC, is no longer a party to this action and has no obligation to make disclosures under Rule 26.

likely to have discoverable information that Defendants may use to support its claims and/or defenses:

Name, Telephone Number and Address (Where Known)	Subject Matter
Lawrence E. English Environmental Resources Program Manager Division of Air Quality, DAQ-Administration 131 A Peninsula Street Wheeling, WV 26003 304-238-1220 x 3504 Lawrence.E.English@Wv.Gov.	Particulate emissions, opacity, and hydrogen sulfide in coke oven gas at the Follansbee facility.
Eric Paul Weisenborn Environmental Resources Program Manager, Division of Air Quality, Compliance/Enforcement 131 A Peninsula Street Wheeling, WV 26003 304-238-1220 x 3509 Eric.P.Weisenborn@Wv.Gov.	Particulate emissions, opacity, and hydrogen sulfide in coke oven gas at the Follansbee facility.
Alfred A. Carducci Environmental Resources Specialist 3 Division of Air Quality, Compliance/Enforcement 131 A Peninsula Street Wheeling, WV 26003 304-238-1220 x 3501 Alfred.A.Carducci@Wv.Gov	Particulate emissions, opacity, and hydrogen sulfide in coke oven gas at the Follansbee facility.
James R. Fenske Environmental Inspector Supervisor Division of Water and Waste Management Hazardous Waste Inspection & Enforcement 2013 Pleasant Valley Road Fairmont, WV 26554 304-368-2000 x 3705 James.R.Fenske@Wv.Gov	Hazardous and solid waste management, inspections, roll-off boxes, and purifier oil tank at the Follansbee facility.

Respectfully submitted,

March 22, 2013

Mr. James Companion
Mr. John Porco
SCHRADER, BYRD & COMPANION, PLLC
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32 - 20th Street, Suite 500
Wheeling, WV 26003
304 233 3390
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s/ Kenneth Komoroski

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Janet L. McQuaid

jmquaid@fulbright.com

David Wilks Corban

dcorban@fulbright.com

FULBRIGHT & JAWORSKI L.L.P.

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Canonsburg, Pennsylvania 15317

Telephone: (724) 416-0400

Facsimile: (724) 416-0404

Attorney for Defendants RG STEEL
WHEELING, LLC (formerly known as
SEVERSTAL WHEELING, LLC,
SEVERSTAL WHEELING, INC., and
WHEELING PITTSBURGH STEEL CORP.)
and MOUNTAIN STATE CARBON, LLC

CERTIFICATE OF SERVICE

I hereby certify that, on March 22, 2013 the foregoing **FIRST SUPPLEMENTAL RULE 26 DISCLOSURES OF DEFENDANTS RG STEEL WHEELING, LLC, AND MOUNTAIN STATE CARBON, LLC** was served via email and first class United States mail, postage prepaid, on the below-listed Counsel for Plaintiff:

Michael J. Zoeller
U.S. Department of Justice
Environment and Natural Resources Division
601 D. Street, NW
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michael.zoeller@usdoj.gov

Betsy Steinfeld Jividen
U.S. Attorney's Office - Wheeling
PO Box 591
Wheeling, WV 26003
(304) 234-0100
betsy.jividen@usdoj.gov

John Sither
U.S. Department of Justice
Environmental Enforcement Section
PO Box 7611
Washington, DC 20044-7611
(202) 514-5484
john.sither@usdoj.gov

s/ Kenneth Komoroski
Kenneth Komoroski (WV 6712)
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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
WHEELING DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
	)	CIVIL ACTION NO. 5:12-CV-19
RG STEEL WHEELING, LLC (formerly)	
known as SEVERSTAL WHEELING,)	
LLC, SEVERSTAL WHEELING, INC.,	)	Complaint filed: February 6, 2012
and WHEELING PITTSBURGH STEEL)	
CORP.), and MOUNTAIN STATE)	
CARBON LLC,)	
)	
Defendants.)	

**MOUNTAIN STATE CARBON, LLC'S OBJECTIONS
TO UNITED STATES' NOTICE OF DEPOSITION
OF DEFENDANT MOUNTAIN STATE CARBON, LLC
PURSUANT TO FRCP 30(b)(6)**

On February 20, 2013, the United States served Mountain State Carbon, LLC ("MSC") with a notice of deposition for a corporate representative of MSC pursuant to Fed. R. Civ. P. 30(b)(6). The notice identified 19 separate subjects of examination and included two requests for production as a subpoena duces tecum. The deposition has been rescheduled by agreement to March 19, 2013.

OBJECTIONS TO NOTICE OF DEPOSITION

MSC objects to topics 15 through 19 of the United States' notice (attached as Exhibit "A"), all of which inquire about facts supporting contentions made by MSC in its Answer or in certain responses to Interrogatories, or both. MSC objects that these inquiries would more appropriately be answered through contention interrogatories rather than through deposition of a

corporate representative, especially one who (in MSC's case) will be a lay witness in a legally complex and highly technical environmental lawsuit. Discovery via interrogatories would offer a far superior means of effecting discovery in such a context.

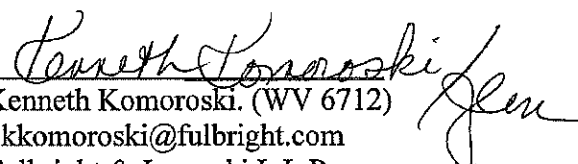
OBJECTIONS TO REQUESTS FOR PRODUCTION

The Notice of Deposition also includes requests for production nos. 1 and 2, which request respectively that MSC produce any documents "not previously produced which contain information responsive to the [19] deposition topics above" (RFP No. 1) and any documents "identified, reviewed, or utilized by the deponent(s) to prepare for this deposition" on 19 different topics (RFP No. 2).

MSC objects that both of these requests are overly broad. MSC further objects to these requests to the extent that they are inconsistent with discussions and verbal understandings between counsel for United States and MSC regarding limitations on discovery that have taken place over at least the last three months.

Date: March 19, 2013

Of Counsel
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Counsel for Defendants *RG Steel Wheeling LLC* and *Mountain State Carbon LLC*

CERTIFICATE OF SERVICE

I hereby certify that, on March 19, 2013, the foregoing **MOUNTAIN STATE CARBON, LLC'S OBJECTIONS TO UNITED STATES' NOTICE OF DEPOSITION OF DEFENDANT MOUNTAIN STATE CARBON, LLC PURSUANT TO FRCP 30(b)(6)** was served by hand, on the below-listed Counsel for Plaintiff:

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Environment and Natural Resources Division
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Kenneth Komoroski, Esq. (WV 6712)
kkomoroski@fulbright.com 

EXHIBIT “A”

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF WEST VIRGINIA
WHEELING DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

RG STEEL WHEELING, LLC, and
MOUNTAIN STATE CARBON, LLC,

Defendants.

Civil Action No. 5:12-cv-019
Chief Judge Bailey

**UNITED STATES' FIRST NOTICE OF DEPOSITION
OF DEFENDANT MOUNTAIN STATE CARBON, LLC PURSUANT TO FRCP 30(b)(6)**

PLEASE TAKE NOTICE that pursuant to Federal Rule of Civil Procedure 30(b)(6), Plaintiff United States of America will take the deposition of a representative or representatives of Defendant Mountain State Carbon, LLC ("MSC") beginning at 9:00 a.m. on March 6, 2013, at the office of the United States Attorney, Northern District of West Virginia, 1125 Chapline Street, Suite 3000, Wheeling, WV 26003, or at some other location agreed upon by counsel. The deposition shall be by oral examination with a written record made thereof, before a person authorized by law to administer oaths. You are at liberty to appear and examine the witness. As required by Rule 30(b)(6), MSC shall designate and produce one or more officials, employees, agents, or other persons who are most knowledgeable to testify on its behalf regarding the topics set forth below.

1. The use of flushing liquor in the coke manufacturing process at the Follansbee facility, including facts about its:

- a. Creation
- b. Composition
- c. Amounts used
- d. Storage
- e. Distribution
- f. Handling

2. The conveyance of flushing liquor to the wastewater treatment plant ("WWTP") at the Follansbee facility, including facts about the quantity of flushing liquor conveyed to the WWTP, and its storage, treatment, and discharge from the WWTP.

3. The generation and distribution of coke oven gas condensate at the Mingo Junction facility, the Steubenville facility, and the Follansbee facility (collectively, the "Steubenville Complex"), including facts pertaining to its:

- a. Creation
- b. Composition
- c. Amounts generated
- d. Storage
- e. Handling
- f. Use

4. The conveyance of coke oven gas condensate to the Follansbee WWTP, including facts about the quantity of condensate to the WWTP, and its storage, treatment, and discharge from the WWTP.

5. The amounts of coke oven gas condensate generated from the coke making process and deposited in the Tar Decanter Sump or other containment vessels at the Follansbee facility each day since August 1, 2003.

6. The amounts of coke oven gas condensate generated in the coke oven gas pipeline at the Steubenville complex and deposited in the Pit Sump or other containment vessels at the Follansbee facility via vacuum truck each day since August 1, 2003.

7. The containment vessels, or tanks in which coke oven gas condensate is stored, distributed, and processed at the Follansbee facility, such as the drip legs, old block gas drips, the Pit Sump, and the Tar Decanter Sump, including facts pertaining to their:

- a. Dates of construction
- b. Manner of construction
- c. Composition
- d. Integrity/tightness testing
- e. Secondary containment and other methods of leak detection
- f. Monitoring and inspections

- g. Determinations of the need for closure plans
- 8. The operation of the coke oven gas pipeline throughout the Steubenville Complex, including facts pertaining to:
 - a. its ownership, or who has legal rights to operate it
 - b. the number and locations of drip legs, torpedos, and other associated condensate storage vessels
 - c. its operation
 - d. its cleaning and maintenance
- 9. The chemical composition of coke oven gas, coke oven gas condensate, the residue resulting from the "pigging" of the coke oven gas pipeline, and any other additives to the pipeline, such as Ferrameen.
- 10. The determination that coke oven gas condensate is not a "hazardous waste" under RCRA.
- 11. Leaks, spills, or releases of coke oven gas condensate from the coke oven gas pipeline, containment vessels, or any other component of the coke oven gas distribution system at the Steubenville Complex since the 1990s, including facts pertaining to specific leaks, spills, or releases, the response by MSC or its predecessor to such leaks, spills, or releases, and the contingency plans for addressing such leaks, spills, or releases, including the disposal of spilled materials.
- 12. The transfer of coke oven gas condensate from drip legs and other vessels to vacuum trucks at the Steubenville Complex, and the process by which these trucks transport the condensate to the Follansbee facility By-Products plant and deposit it into containment vessels there.
- 13. How coke oven gas condensate was historically stored, handled, distributed, used, and discharged at the Steubenville Complex before MSC's predecessor initiated the practice of collecting it and transporting it via vacuum truck to the Follansbee facility.
- 14. Results of sampling of soils and groundwater at and around the coke oven gas pipeline at the Steubenville Complex.
- 15. The facts supporting MSC's contention in its response to U.S. Interrogatory No. 16 that coke oven gas condensate contains only *de minimis* concentrations of substances that would be considered regulated substances" under 40 C.F.R. Part 280.
- 16. The facts supporting MSC's contention in its response to U.S. Interrogatory No. 16 that drip legs "are not tanks but are an integral part of the COG pipeline system," or alternatively, that drip legs are "flow-through tanks through which COG condensate flows as part of a process."

17. The facts supporting MSC's contentions in paragraph 115 of its Answer and in its response to U.S. Interrogatory No. 14 that coke oven gas condensate "is not discarded or intended to be discarded" and performs "a necessary function in the coke making process."

18. The facts supporting MSC's contention in its response to U.S. Interrogatory Nos. 18-19 that drip leg tanks, old block gas drips, the Pit Sump, and the Tar Decanter Sump at the Follansbee Facility, and drip legs tanks at the Mingo Junction and Steubenville Facilities, "are not 'underground storage tanks.'"

19. The facts supporting the Eighth and Ninth Affirmative Defenses asserted in the Defendants' Answer filed July 23, 2012.

In accordance with Rules 34 and 30(b)(5), Defendant shall also produce the items set forth below at the time of or before the deposition.

1. Documents not previously produced which contain information responsive to the deposition topics above.

2. Documents identified, reviewed, or utilized by the deponent(s) to prepare for this deposition.

Dated: February 20, 2013

Respectfully Submitted,

IGNACIA S. MORENO
Assistant Attorney General
Environment and Natural Resources Division
United States Department of Justice

/s/Michael J. Zoeller
MICHAEL J. ZOELLER (DC Bar No. 426476)
JOHN W. SITHER (DC Bar No. 431542)
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WILLIAM J. IHLENFELD, II
United States Attorney

OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify service of the above UNITED STATES' FIRST NOTICE OF DEPOSITION OF DEFENDANT MOUNTAIN STATE CARBON, LLC PURSUANT TO FRCP 30(b)(6) on this 20th day of February, 2013 to:

Kenneth Komorowski
Janet McQuaid
Fulbright & Jaworski L.L.P.
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(Via Electronic Mail and 1st Class Mail)

David Corban
Fulbright & Jaworski L.L.P.
Fulbright Tower
1301 McKinney
Suite 5100
Houston, Texas 77010
(Via Electronic Mail)

/s/ John W. Sither
JOHN W. SITHER
Environmental Enforcement Section
Environment and Natural Resources
Division
P.O. Box 7611
Washington, D.C. 20044-7611

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
WHEELING DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
	)	CIVIL ACTION NO. 5:12-CV-19
RG STEEL WHEELING, LLC (formerly)	
known as SEVERSTAL WHEELING,)	
LLC, SEVERSTAL WHEELING, INC.,	)	Complaint filed: February 6, 2012
and WHEELING PITTSBURGH STEEL)	
CORP.), and MOUNTAIN STATE)	
CARBON LLC,)	
)	
Defendants.)	

**DEFENDANTS' FIRST REQUESTS FOR ADMISSION AND SECOND SET OF
INTERROGATORIES AND REQUESTS FOR PRODUCTION**

Pursuant to Fed. R. Civ. P. 36, Defendants RG Steel Wheeling, LLC and Mountain State Carbon, LLC (collectively "Defendants") request that Plaintiff United States of America respond to these Request for Admission, Interrogatories, and Requests for Production.

INSTRUCTIONS

These Requests for Admission cover all information in the United States or EPA's possession, custody and control, including information in the possession of its administrators, employees, agents, servants, representatives, attorneys, or other persons directly or indirectly employed or retained by it, or anyone else acting on MSC's behalf or otherwise subject to its control.

Each Request must be specifically admitted or denied.

If a Request is not admitted, the response must specifically deny the matter or state in detail why it cannot be truthfully admitted or denied, in accordance with FRCP 36(a)(4).

Requests calling for numerical or chronological information shall be deemed, to the extent that precise figures or dates are not known, to call for estimates.

In responding to the following Requests for Admission, you should apply the definitions in Northern District of West Virginia Local Rule of Civil Procedure 26.02, your Complaint, your Requests for Admission, and your First and Second and Sets of Interrogatories and Requests for Production of Documents, as and to the extent modified below.

DEFINITIONS

“ABOVE MATTER” or **“INSTANT CASE”** shall mean the litigation filed by the United States of America (“Plaintiff”) in the United States District Court for the Northern District of West Virginia before Chief Judge John Preston Bailey, Civil Action No. 5:12-cv-19.

“AND” shall mean **“OR”** and *vice versa*, and both terms shall be construed either disjunctively or conjunctively to bring within the scope of these interrogatories any information that might otherwise be construed to be outside their scope.

“COMPLAINT” shall mean the Complaint filed by the United States of America against RG Steel Wheeling, LLC (formerly known as Severstal Wheeling, LLC, Severstal Wheeling, Inc., and Wheeling Pittsburgh Steel Corp.), Mountain State Carbon, LLC, and SNA Carbon, LLC, in the Northern District of West Virginia on February 6, 2012, in Cause No. 5:12-cv-19, and any subsequent amended complaint or supplemental pleading in that action.

“EPA” shall mean the United States Environmental Protection Agency and any office or region thereof, as well as any attorney, employee, agent, partner, investigator, consultant, or representative, past or present, and all persons acting or purporting to act on behalf of same for any purpose whatsoever.

“EXPLAIN” shall mean to describe what is requested, specifically and precisely, with reference to underlying facts and calculations, rather than only to ultimate facts or conclusions of law, and with detailed references to time, place, context, and methodology.

“FOLLANSBEE” shall mean Defendants’ coke production and by-products recovery facility in Follansbee, West Virginia described in the Complaint.

“MOUNTAIN STATE CARBON” shall mean Defendant Mountain State Carbon, LLC, including any parent, subsidiary, or affiliate, or any other corporations presently or formerly affiliated with Mountain State Carbon, LLC. Furthermore, “Mountain State Carbon” shall include any agents, employees, attorneys, accountants, investigators, consultants or other persons acting or purporting to act for it or on its behalf.

“STEUBENVILLE COMPLEX” shall mean, collectively, the Follansbee, Mingo Junction, and Steubenville facilities.

“UNITED STATES OF AMERICA,” “UNITED STATES” OR “U.S.” shall mean the United States of America and all its agencies and departments, including without limitation, the Department of Justice, the Environmental Protection Agency, the National Enforcement Investigations Center, and those departments’ and agencies’ agents and employees.

“WEST VIRGINIA DEP or WV DEP” shall mean the West Virginia Department of Environmental Protection, including any office or region thereof, and any agents, employees, attorneys, accountants, investigators, consultants or other persons acting or purporting to act on behalf of West Virginia Department of Environmental Protection.

“YOU” or “YOUR” shall mean Plaintiff the United States of America, the EPA, the National Enforcement Investigations Center, and/or the United States Department of Justice, in each case including any office or region thereof. Furthermore, “you” or “your” shall include any

agents, employees, attorneys, accountants, investigators, consultants or other persons acting or purporting to act for you or on your behalf.

REQUESTS FOR ADMISSION

- RFA 1. Admit that you have not, prior to the Instant Action, brought a civil or administrative enforcement action against a facility for alleged violations of West Virginia Reg. 7, WV CSR § 45-7-3.1 (“WV Reg. 7”), for emission of smoke or particulate matter.
- RFA 2. Admit that you rely solely on observations made by the WV DEP in connection with the Third Claim and Appendix C of the Complaint alleging that the Follansbee facility violated WV Reg. 7.
- RFA 3. Admit that you have of no evidence of the alleged violations of WV Reg. 7 other than the observations listed in Appendix C of the Complaint.
- RFA 4. Admit that the you asked or instructed the WV DEP to make the observations listed in Appendix C of the Complaint.
- RFA 5. Admit that smoke and particulate emissions at the Follansbee facility comply with the Maximum Achievable Control Technology emissions limit allowed under the Follansbee facility’s Title V permit based on data from the Continuous Opacity Monitor at the Follansbee facility.
- RFA 6. Admit that the you have not, prior to the Instant Action or the proceedings leading up to it, brought a civil or administrative enforcement action in which the you alleged that coke oven gas condensate is a hazardous waste under Subtitle C of the Resource

Conservation and Recovery Act ("RCRA") or the West Virginia Hazardous Waste Management Act ("WV HWMA").

RFA 7. Admit that the you have not, prior to the Instant Action or the proceedings leading up to it, brought a civil or administrative enforcement action in which the you alleged that drip legs, torpedoes, or similar coke oven gas condensate collection devices are tanks subject to regulation under Subtitle C of the Resource Conservation and Recovery Act ("RCRA") or the West Virginia Hazardous Waste Management Act ("WV HWMA").

RFA 8. Admit that the you have not, prior to the Instant Action or the proceedings leading up to it, brought a civil or administrative enforcement action in which the you alleged that coke oven gas condensate is a regulated substance under Subtitle I of the Resource Conservation and Recovery Act ("RCRA") or the West Virginia Underground Storage Tank Act.

RFA 9. Admit that the you have not, prior to the Instant Action or the proceedings leading up to it, brought a civil or administrative enforcement action in which the you alleged that drip legs, torpedoes, or similar condensate collection devices on a coke oven gas pipeline are underground storage tanks subject to regulation under Subtitle I of the Resource Conservation and Recovery Act ("RCRA") or the West Virginia Underground Storage Tank Act.

RFA 10. Admit that you have not, prior to the Instant Action, brought a civil enforcement action in which you alleged that purifier oil (a/k/a muck oil) was a hazardous waste under Subtitle C of the Resource Conservation and Recovery Act ("RCRA") or the West Virginia Hazardous Waste Management Act ("WV HWMA").

INTERROGATORIES

The terms used in these Interrogatories and Document Requests shall be read as consistent with the way in which those terms are used in the Complaint in this action, Defendants' Requests for Admission above, and Defendants' First Set of Interrogatories and Requests for Production.

ROG 32. To the extent that you are unable to unequivocally admit any request for admission above, EXPLAIN the basis of your denial.

REQUESTS FOR PRODUCTION OF DOCUMENTS

RFP 31. All documents upon which you intend to rely in any hearing, conference, meeting, motion, or trial in this case.

RFP 32. All documents that are identified, referred to, reviewed, utilized, consulted, relied upon, or used in any way in your Responses to Interrogatories, including but not limited to ROG 32.

Date: March 22, 2013

s/ Janet L. McQuaid

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Counsel for Defendants *RG Steel Wheeling*
LLC and Mountain State Carbon LLC

CERTIFICATE OF SERVICE

I hereby certify that, on March 22, 2013, the foregoing **DEFENDANTS' FIRST REQUESTS FOR ADMISSION AND SECOND SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION** were served via electronic mail on the below-listed Counsel for Plaintiff:

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March 7, 2013

VIA FEDERAL EXPRESS

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Wheeling, WV 26003

John Sither
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Environmental Enforcement Section
601 D. Street, NW, Room 2121
P.O. Box 7611
Washington, DC 20004-7611

Re: United States of America v. RG Steel Wheeling, LLC, and Mountain State Carbon, LLC,
N.D. W.Va. Civil Action No. 5:12-cv-00019.

Dear Counsel:

I enclose a disc containing new documents being produced by Defendant, Mountain State Carbon, LLC. These documents have been bates numbered MSC_016870 – MSC_018026. Note that MSC 016870 is being produced in native format only. The bates numbers correspond with your requests as follows:

1. COM data (RFP No. 8)

- MSC_016870.

2. Coke oven records (RFP No. 10)

- Battery 8 Status, January 2013: MSC_016871.
- Battery 8 Push Reports: MSC_016940 – MSC_017200.
- Battery 8 Turn Reports: MSC_017201 – MSC_017386; MSC_17390 – MSC_17557; MSC_017562 – MSC_17747.

Mr. Michael J. Zoeller
Ms. Betsy Steinfeld Jividen
Mr. John Sither
March 7, 2013
Page 2

- Oven Operation and Maintenance: MSC_17387 – MSC_17389; MSC_017558 – MSC_017561; MSC_017748 – MSC_017756.
3. Daily production data (RFP No. 12)
 - Mountain State Carbon Coke Production (2000 – 2012): MSC_017757.
 - Battery 8 Coke Production (2003 – 2013): MSC_017917.
 4. Desulfurization unit records (RFP Nos. 16, 18)
 - Desulfurization Turn Reports (February 2013): MSC_017758 – MSC_017775.
 - By-product Desulfurization Turn Reports (February 22 – 28, 2013): MSC_017776 – MSC_017796.
 - By-product Desulfurization Turn Reports (January – February 2006): MSC_017797 – MSC_017916.
 - Sample Daily Emission Report (September 2, 2006): MSC_017918.
 5. Drawings of the old block gas drips, the sump pit or pit sump, and the tar decanter sump (RFP No. 19)
 - MSC_017919.
 6. Report regarding cleaning of muck oil tank (RFP No. 29)
 - MSC_017920 – MSC_017925.
-
1. Truck drivers (Rog. No. 26)
 - MSC_017926 – MSC_017928.
 2. Days on which coke oven gas condensate was not collected (Rog. No. 27)
 - No additional documents.

Mr. Michael J. Zoeller
Ms. Betsy Steinfeld Jividen
Mr. John Sither
March 7, 2013
Page 3

3. Testing/monitoring of the integrity of above/below ground coke oven gas drain lines and collections tanks (Rog. No. 28)

- Coke Oven Gas Condensate Drip Legs Remediation Project (June 7, 2001):
MSC_017929 – MSC_017939; MSC_017940 – MSC_018026.

Please let me know if you have any problems opening these files or if you have any questions.

Very truly yours,



Janet McQuaid

JLM/dmr

Enclosure

cc: Kenneth Komoroski, Esq.
David Wilks Corban, Esq.

Smith, Robert

From: Williams, Thomas
Sent: Wednesday, March 06, 2013 3:44 PM
To: Smith, Robert; Dickens, Brian; Bagherian, Reza; Mikulka, Michael
Cc: Furey, Eileen
Subject: US V RG Steel Wheeling (civil action) - deadline for non-expert discovery

Colleagues, the scheduling order in the above matter provides a non-expert discovery (i.e., discovery of factual matters, such as documents and lay witness testimony) deadline of April 15, 2013, which we take to mean that requests to take non-expert discovery must be served sufficiently early so that such discovery can be completed by that date. So far, we have not received any discovery requests from defendants, notwithstanding our having served discovery requests on them. Since parties normally have 30 days to respond to discovery, I anticipate service would have to be effected by March 15, the 16th being a Saturday. On our call last week, I emphasized that we should resist any efforts to take fact-based discovery (e.g., producing any of you for deposition testimony) after the deadline has passed.

I noticed in defense attorney McQuaid's exchange with Mike Zoeller an interest in having the ability to take depositions in Illinois, so we may yet be hearing from them, notwithstanding their having waited so long. I will keep you posted if we receive any requests.

Tom 6-0814

Smith, Robert

From: Zoeller, Michael (ENRD) [Michael.Zoeller@usdoj.gov]
Sent: Monday, March 11, 2013 9:24 AM
To: Moore, Peter; Stephanos, Ann; Calhoun, Michael; Dresdner, Robert; Williams, Thomas; Mikulka, Michael; Smith, Robert; Dickens, Brian; Howell, Joyce; Boehmcke, Daniel; hagedorn, james; Matlin, Martin
Cc: Sither, John (ENRD)
Subject: FW: US v RG Steel: discovery issues
Attachments: 2013.03.07 RG Supplemental Production.pdf

Attached is defendants' supplemental production from our follow-up request. You will note that it does not contain any ESI from our last unnumbered request.

We will be loading these documents into Relativity this week.

Mike

From: McQuaid, Janet [mailto:jmcquaid@fulbright.com]
Sent: Monday, March 04, 2013 9:14 PM
To: Zoeller, Michael (ENRD)
Cc: Sither, John (ENRD); Corban, David Wilks; Komoroski, Kenneth
Subject: RE: US v RG Steel: discovery issues

Mike:

We sent our supplemental document production to our practice support department this afternoon. Because of the *.tif format, it can take a few days to turn around. We are pressing for completion as quickly as possible.

With respect to your summary:

Requests for Production

1. RFP No. 8.--All of the raw COM data we have will be in the supplemental discovery in *.sql format. The 135 days was my recollection of what was available. All of the raw data that Mountain State has will all be in the supplemental discovery.
2. RFP No. 8.--Coke oven data: Correct. The MS Excel spreadsheets will be in the supplemental production
3. RFP No. 12.--Correct, the Battery 8 turn reports will be in the production 12/2012-2/2013. We are also providing an updated spreadsheet of coke production to replace the one previously produced, which gives you the dry coke and wet coke produced from Battery 8.
4. RFP Nos. 16, 18.—With respect to the desulfurization unit records, we believe that you agreed first to receive and review a smaller sample (e.g. on the order of days to a week) in order to determine whether it would be necessary to produce everything going back to November 2011. We have collected desulph turn reports for December 10-16, 2012. They will be in our supplemental production. With respect to the four screen shots, I am trying to get the Bates Numbers from the prior production, but rather than wait, I am attaching them here. Let's discuss what reasonable number of parameters you want over a reasonable time frame. We discussed possibly 20 total parameters giving you 24 hours from a typical day in each of four seasons.
5. RFP No. 19.—Correct, we will produce the drawings we have been able to locate. The will be in the supplemental production.

6. RFP 29.—we have located a work order for the contractor who emptied the tank, which we will send you in the supplemental production.

Interrogatories:

1. Rog No. 26.—We will provide the list of truck drivers in the supplemental production.

2. Rog. No. 27.—daily condensate data may be found in the replacement production sent to you previously under MSC004220N.XLS, MSC004221N.XLS, MSC004222N.XLS, MSC004223N.XLS, MSC004224N.XLS. These spreadsheets cover years 2003-2007.

3. Rog No. 28.—MSC 007094 is the study we were mentioning. There is also an updated 2007 version at MSC_007405. There is a CEC report at MSC_006759. Wheeling-Pittsburgh Steel or its successors also did condensate sampling/testing, as evidenced by documents found at MSC_006083, MSC_004715, MSC_004745 – MSC_004804, MSC_004829 – MSC_004925. We will also be providing an additional document from June 2001 in the supplemental production.

Regards,
Janet
724.416.0427 office

From: Zoeller, Michael (ENRD) [mailto:Michael.Zoeller@usdoj.gov]

Sent: Friday, March 01, 2013 5:03 PM

To: McQuaid, Janet; Corban, David Wilks; Komoroski, Kenneth

Cc: Sither, John (ENRD); 'Daniel Boehmcke (boehmcke.daniel@epa.gov)'; 'Tom Williams'; 'Peter Moore'; 'Joyce Howell'; 'Ann Stephanos'

Subject: RE: US v RG Steel: discovery issues

Janet,

We wanted to follow up on our call with you last Thursday regarding the list of discovery issues mentioned in my email of February 15. Please let us know if you think our summary, in italics below, is inaccurate or incomplete.

1. COM data: we received no electronic COM data, although requested by RFP No. 8
You offered to produce COM data from the combustion stack at Battery 8 in one-minute intervals going back 135 days. The data would be in Microsoft SQL format.
2. Coke oven records: we received very few documents regarding maintenance and operation of the coke ovens (RFP No. 10). Specifically, we expected to see some routine maintenance and operation records, daily reports, etc. These may not be in the files of key custodians, but maintained in an easily-identifiable set of documents.
You offered to produce the daily summary of repairs and maintenance on the coke ovens maintained in MS Excel format that is readily available.
3. Daily coke production data (RFP No. 12)
You offered to produce daily coke production data for Battery 8 contained in what you referred to as "turn reports" between December 1, 2012 and February 2013.
4. Desulfurization unit records: we received few documents providing daily or weekly maintenance and operation records for the desulf unit (RFP Nos. 16, 18)
You offered to produce daily operator logs dating back to November 2011. In our call last week and a subsequent follow-up call, you stated that you would produce the other three screen shots

of the desulfurization monitor showing the numerous parameters monitored. We will look over those parameters and will attempt to limit the data we need to see by time or by parameter.

5. Drawings of the old block gas drips, the sump pit or pit sump, and the tar decanter sump (RFP No. 19)
You noted that Bud Smith had located some additional drawings responsive to this request and these will be produced.
6. Report regarding cleaning of muck oil tank (RFP 29): photographs produced, but no document describing removal.
We asked for any documentary evidence of the cleaning of the muck oil tank. You offered to conduct a further investigation and produce what you could find.

We have also had difficulties finding responsive documents which MSC's responses to the following interrogatories suggest exist:

1. Rog No. 26 – We found no names of truck drivers known to MSC that are “reflected in the documents produced in response to” US RFPs.
You offered to provide a list of truck drivers used by RG Steel Wheeling when it operated the coke ovens. You mentioned that it was your understanding that only one of these drivers had been hired by Mountain State Carbon.
2. Rog No. 27 – Despite MSC's interrogatory response suggesting that information responsive to this interrogatory may be found in the documents provided in response to the RFPs, we found no such information. Confusingly, MSC's response to RFP No. 27 suggests such information does not exist. We are aware that some spreadsheets providing total condensate generated are in the production, but it is not clear whether this condensate comes from the coke oven gas pipeline or directly from the coke oven.
*You stated that Mountain State Carbon does not maintain records of when coke oven gas condensate is **not** collected, only when it is collected. We discussed the documents produced showing summaries of amounts of coke oven gas condensate collected, noting that there is no condensate collection data prior to April 2, 2007 (likewise with the coke production data). You offered to look into this further. Since last week we've discovered some condensate data was provided to NEIC and was attached to the 2007 NEIC Report as Appendix P. It might be useful to pursue the source of that document and whether there is additional data where it came from.*
3. Rog No. 28 – We found no documents that evidence the testing or monitoring of the integrity of above/below ground coke oven gas drain lines and collection tanks.
You stated that Mountain State Carbon has done no integrity testing of its coke oven gas drain lines and collection tanks. You were aware of a study done by Quattro Associates prior to 2004 that touched on this issue and offered to produce it to us. Since our call, we have identified a Quattro study in the production (MSC 007094) but we do not know if it is the one you are referring to.

During our call, we also asked for Electronically Stored Information in response to RFPs 21-24 and 26-27 going back to 1999, but confining the search to the electronic files of custodians Bud Smith and Pat Smith. You stated that you would look into getting us that, to the extent that it was technologically feasible.

We had expected to receive some of these documents as early as this week. Please let us know when you expect to produce these.

Regards,

Mike

Michael J. Zoeller
Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
United States Department of Justice
P.O. Box 7611
Washington, DC 20044-7611
(202) 305-1478

From: Zoeller, Michael (ENRD)
Sent: Friday, February 15, 2013 12:02 PM
To: 'McQuaid, Janet'; Corban, David Wilks
Cc: Sithar, John (ENRD)
Subject: US v RG Steel: discovery issues

Janet,

We would like to have a call next week to follow-up on several discovery issues.

We have completed our review of the documents produced and compared them with our 42 requests for production. Here is our list of documents that appear to be missing or incomplete:

7. COM data: we received no electronic COM data, although requested by RFP No. 8
8. Coke oven records: we received very few documents regarding maintenance and operation of the coke ovens (RFP No. 10). Specifically, we expected to see some routine maintenance and operation records, daily reports, etc. These may not be in the files of key custodians, but maintained in an easily-identifiable set of documents.
9. Daily coke production data (RFP No. 12)
10. Desulfurization unit records: we received few documents providing daily or weekly maintenance and operation records for the desulf unit (RFP Nos. 16, 18)
11. Drawings of the old block gas drips, the sump pit or pit sump, and the tar decanter sump (RFP No. 19)
12. Report regarding cleaning of muck oil tank (RFP 29): photographs produced, but no document describing removal.

We have also had difficulties finding responsive documents which MSC's responses to the following interrogatories suggest exist:

4. Rog No. 26 – We found no names of truck drivers known to MSC that are “reflected in the documents produced in response to” US RFPs.
5. Rog No. 27 – Despite MSC's interrogatory response suggesting that information responsive to this interrogatory may be found in the documents provided in response to the RFPs, we found no such information. Confusingly, MSC's response to RFP No. 27 suggests such information does not exist. We are aware that some spreadsheets providing total condensate generated are in the production, but it is not clear whether this condensate comes from the coke oven gas pipeline or directly from the coke oven.

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March 7, 2013

VIA FEDERAL EXPRESS

Michael J. Zoeller
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John Sither
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Environmental Enforcement Section
601 D. Street, NW, Room 2121
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Washington, DC 20004-7611

Re: United States of America v. RG Steel Wheeling, LLC, and Mountain State Carbon, LLC,
N.D. W.Va. Civil Action No. 5:12-cv-00019.

Dear Counsel:

I enclose a disc containing new documents being produced by Defendant, Mountain State Carbon, LLC. These documents have been bates numbered MSC_016870 – MSC_018026. Note that MSC 016870 is being produced in native format only. The bates numbers correspond with your requests as follows:

1. COM data (RFP No. 8)

- MSC_016870.

2. Coke oven records (RFP No. 10)

- Battery 8 Status, January 2013: MSC_016871.
- Battery 8 Push Reports: MSC_016940 – MSC_017200.
- Battery 8 Turn Reports: MSC_017201 – MSC_017386; MSC_17390 – MSC_17557; MSC_017562 – MSC_17747.

Mr. Michael J. Zoeller
Ms. Betsy Steinfeld Jividen
Mr. John Sither
March 7, 2013
Page 2

- Oven Operation and Maintenance: MSC_17387 – MSC_17389; MSC_017558 – MSC_017561; MSC_017748 – MSC_017756.

3. Daily production data (RFP No. 12)

- Mountain State Carbon Coke Production (2000 – 2012): MSC_017757.
- Battery 8 Coke Production (2003 – 2013): MSC_017917.

4. Desulfurization unit records (RFP Nos. 16, 18)

- Desulfurization Turn Reports (February 2013): MSC_017758 – MSC_017775.
- By-product Desulfurization Turn Reports (February 22 – 28, 2013): MSC_017776 – MSC_017796.
- By-product Desulfurization Turn Reports (January – February 2006): MSC_017797 – MSC_017916.
- Sample Daily Emission Report (September 2, 2006): MSC_017918.

5. Drawings of the old block gas drips, the sump pit or pit sump, and the tar decanter sump (RFP No. 19)

- MSC_017919.

6. Report regarding cleaning of muck oil tank (RFP No. 29)

- MSC_017920 – MSC_017925.

1. Truck drivers (Rog. No. 26)

- MSC_017926 – MSC_017928.

2. Days on which coke oven gas condensate was not collected (Rog. No. 27)

- No additional documents.

Mr. Michael J. Zoeller
Ms. Betsy Steinfeld Jividen
Mr. John Sither
March 7, 2013
Page 3

3. Testing/monitoring of the integrity of above/below ground coke oven gas drain lines and collections tanks (Rog. No. 28)

- Coke Oven Gas Condensate Drip Legs Remediation Project (June 7, 2001):
MSC_017929 – MSC_017939; MSC_017940 – MSC_018026.

Please let me know if you have any problems opening these files or if you have any questions.

Very truly yours,



Janet McQuaid

JLM/dmr

Enclosure

cc: Kenneth Komoroski, Esq.
David Wilks Corban, Esq.